



Montana Department
of Transportation

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Marc Racicot, Governor

March 25, 1999

Janice W. Brown
Division Administrator
Federal Highway Administration
2880 Skyway Drive
Helena, MT 59602-1230

Subject: Consultant Services Procedures

Attached are two copies of the final version of our Consultant Services procedures. These procedures have been through extensive reviews. All comments have been addressed, and now your approval is requested.

We certify that we will conform with our written procedures, the provisions of 23 CFR 172 and all applicable Federal and State laws, and administrative rules and regulations.

If you need clarification of any part of these procedures, or want additional revisions, please call me.

Gary A. Gilmore, P.E., Administrator
Highways and Engineering Division

Approved

Federal Highway Administration

Date

4/27/99

Approved

Director, Montana Department
Of Transportation

Date

4/27/99

GG:SAN:sn|e3

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Carl Peil
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CONSULTANT SERVICES PROCEDURES

AUTHORITY: This procedure has been prepared by the Consultant Design Engineer, Consultant Design Section; reviewed by the Preconstruction Engineer, Preconstruction Bureau and the Administrator Engineering Division; and approved by the Director of Transportation. This procedure was approved by the Federal Highway Administration in compliance with current federal regulations on April 27, 1999.

PURPOSE: To establish the procedure for consultant selection; the negotiation, execution and completion of a consultant contract; consultant monitoring; review and acceptance of final product; and development and maintenance of a list of consulting firms. To identify the significant steps in the process and the documentation required in each consultant contract file to comply with current federal regulations.

PROCEDURE:

CONSULTANT SELECTION & NEGOTIATIONS

Legal Authority: The applicable law for the consultant selections contemplated under these procedures is MCA Section 18-4-101, et seq. and 18-8-201, et seq. which require the Department to follow certain minimum thresholds during its selection process.

As this procedure applies to the procurement of services with funds made available under 23 U.S.C., it applies to all Divisions of the Department of Transportation. Therefore, as appropriate, the responsibility column or other appropriate items should be revised to fit the personnel in each Division that will be performing the action.

In order to qualify for the use of Federal-aid money in the funding of consultant engineering services, all governmental agencies working through or within the Department of Transportation will follow these procedures.

Responsibility

Action

Administrator,
Engineering Division

1. By means of the Preconstruction Management System, determines the need for and benefit of consultant services. Section 1 of the Attachment gives a list of the types of consultant services often used by the Department.

Consultant Design
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2. Prepares a scope of work for the project or service, defining what is expected from the selected consultant and what the Department will provide to the consultant. The scope of work will be based on the



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preliminary field review and/or input from the appropriate district; preconstruction; bridge, hydraulics, etc.

An estimate of the cost of performing the work will be prepared. The estimate will consider the estimated hours of consultant work, type of labor involved (project manager, designer, technician, etc.), out of pocket expenses, and fixed fees.

The cost estimate will provide enough detail to serve as a valid comparison for use by the department to the proposals submitted by the consultants. This estimate will be completed before any proposals are received from the consultants. The basis of the estimate will be documented. The date the estimate was prepared and by whom will be documented. The anticipated cost of services (estimate) will not be identified to potential consultants.

3. Establishes Disadvantaged Business Enterprise goals in consultation with the Civil Rights Bureau.

4. Notifies all consultants on the appropriate consultants list that have expressed interest in the particular type of work needed, except as noted in Section 4a, of the desire to obtain professional services and requests a proposal for that accomplishment. Consultants must submit a Federal Form 254 biannually to remain on the Department's list of consultants (see step 44). In addition, if item 4a does not apply, a notice is placed in the State's seven major newspapers including publications serving minority populations setting forth the Department's intent to retain a consultant.

a. Non-competitive negotiations may be used to obtain consultants services when the award of a contract is not feasible under small purchase or competitive negotiation procedures. Non-competitive negotiations may be used;

(1) If the work to be performed is such that it is available only from a single source or,

(2) There is an emergency which will not permit the time necessary to conduct competitive negotiations or,

(3) After solicitation of a number of sources, competition is deemed inadequate. Upon receipt of FHWA written approval, the Board may solicit a proposal from only one firm (non-competitive negotiation).



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If procurement by non-competitive negotiation is chosen, under one of the three circumstances listed in 4a, the justification and rationale for going sole source rather than competitive negotiation is documented in the Consultant Selection Board minutes along with the reasons for selecting the one particular firm.

If the non-competitive process is used, the Civil Rights Bureau will be notified to ensure maximum use of potential Disadvantage Business Enterprise.

Under non-competitive negotiation, it will still be necessary to prepare an adequate scope of work, evaluation factors, cost estimate, and conduct any necessary negotiations as is required under competitive negotiations.

b. In the formal Request for Proposal and Statement of Qualifications, prospective consultants will be provided with sufficient detailed information to allow the development of a responsive proposal. As a minimum, this will include:

- (1) Description & location of project(s).
- (2) Scope of work and technical requirements as needed by the Department.
- (3) Project schedule. Start date; deadlines; and completion date.
- (4) Civil Rights Act of 1963 - Title VI obligations.
- (5) Disadvantaged Business Enterprise obligations.
- (6) Identification of all factors to be used in evaluating the proposals, and their relative importance in the rating process. As a minimum, these will include:
 - Previous firm experience (Reference Federal Form 254).
 - Experience, qualifications, and resumes of personnel to be used on project listed by name and position (Reference: Federal Form 255).



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- Experience and qualifications of subconsultants to be used on the project in specific terms.

- Capability and capacity of firm to meet technical and schedule requirements for the project.

- Past and current performance on transportation projects.

(7) Consultants will be required to list projects by order of preference when more than one project is covered by one RFP.

(8) Method of payment will be administered on a cost plus fixed fee basis unless other payment methods are determined to be in the best interest of the Department.

(9) Response time for submittal of proposal

(10) Notification that an overhead rate for the current fiscal year audited in accordance with the Federal Acquisition Regulations will be required for the contract.

c. Section 2 of the Attachment gives a sample format which the consultants will use for their proposals.

5. Receives the proposals from the consultant(s). Notifies appropriate Rating Panel Personnel. Section 3 of the Attachment lists typical rating panels.

Rating Panel
(under direction of
Consultant Design
Engineer)

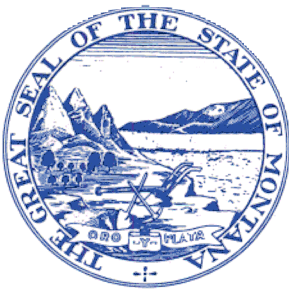
6. Performs an analysis of the proposals using a consistent method for ranking and documenting each factor analyzed. Factors analyzed will be those listed as selection factors in the Request for Proposal and will normally be the factors listed below:

a. 5% - Location:

This criterion may be assigned 0 to 5 percent weight depending upon necessity of firms' geographical locations and/or job expertise requirements. Consultant Design Engineer will determine proper weight to this category for each project.

b. 30% - Quality of Firm and Personnel:

(1 Related experience on similar projects



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(2) Qualifications, experience and training of staff to be assigned to project.

c. 35% - Capability and Capacity of Firm

(1) Ability to meet all technical requirements.

(2) Capability of firm to meet project time requirements.

(3) Capability to respond to project and Departmental requirements.

(4) Compatibility of systems, equipment (i.e., CADD and public visualization capabilities).

d. 30% - Record of Past Performance of Firm in Previous Projects. Rating on the past performance will be done by the Consultant Design Section.

(1) Measure of previous record with the Department will be based on the in-house documentation of quality of work, on-schedule performance, cost performance, cooperation with the Consultant Design Engineer and staff

(2) A limited or no previous record with the Department will require reference checks. Consultant Design Engineer will devise an equitable measure for this rating criterion.

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Engineer

7. Evaluation factors and ratings for all consultant firms will be summarized on a form for use by Consultant Selection Board. Results and conclusions from the analysis for each factor will be clearly documented on the form.

8. Calls a meeting of the Consultant Selection Board made up of the appropriate personnel. Section 4 of the Attachment lists typical selection boards.

Consultant Selection
Board

9. Reviews proposals and summary report and selects a short list. The Board will ensure that only highly qualified firms are short-listed.

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10. Records the reasons and rationale behind the selection of the short list of firms in the Consultant Selection Board meeting minutes. The facts and circumstances clearly justifying the selections made will be set out in these minutes.



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11. Notifies firms that are on the short list and requests final proposals. Identifies all factors that will be used in making the final selection and the relative importance and ranking weight of each. As a minimum, the following information will be requested in all final proposals:

- a. Consultant's complete audit report for the current fiscal year audited in accordance with the Federal Acquisition Regulations (FAR) including overhead rate.
- b. Consultant's understanding of the project
- c. Consultant's approach to the specific project
- d. Consultant's organization/work plan for the project.
- e. Consultants will be required to list projects by order of preference if they are short listed for more than one project under the same RFP.
- f. Consultant's estimate of the hours to complete the project based on the information contained in the RFP.
- g. Other items pertinent to a particular project
- h. Listing of all subconsultants to be utilized and the tasks each subconsultant will be responsible for.
- i. Copies of Montana Disadvantaged Business Enterprise certification for each Disadvantaged Business Enterprise being utilized on the project.

12. Receives final proposals with supporting data from the short-listed consultants. Notifies appropriate Rating Panel personnel.

Rating Panel
(under direction of
Consultant Design
Engineer)

13. Performs analysis of the proposals using a consistent method for ranking and documenting each factor analyzed.

Factors analyzed will be those listed as selection factors in the request for final proposals. The factors listed below represent items normally requested in the final proposal.



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Understanding and quality of response to Request for Proposal for architectural, engineering, or Surveying contracts:, 100%.

- a. Ability of consultant to identify project-specific issues. (25%)
- b. Ability of consultant to communicate firm's proposed approach to specific project issues. (25%)
- c. Clarity of consultant's response and understanding of Department of Transportation's project requirements. (25%)
- d. Organization of consultant's work plan. (25%)
- e. If necessary, other pertinent factors may be considered and weights adjusted accordingly.

Understanding and quality of response to Request for Proposal for non-architectural, non-engineering, or non-surveying contracts: 100%.

- a. Cost (30%)
- b. Availability and Organization of consultant's work plan. (25%)
- c. Clarity of consultant's response, understanding of the specific issues and understanding of Department's requirements. (25%)
- d. Approach to the project specific issues. (20%)

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14. Evaluation factors and ratings for all consultant firms will be summarized on a form for use by Consultant Selection Board. Results and conclusions from the analysis for each factor will be clearly documented on the form. The Departmental estimate will also be documented on the form.

15. Calls a meeting of the Consultant Selection Board made up of the appropriate members.

Consultant Selection
Board

16. Reviews proposals and the engineering or technical analysis summary report. Reviews and discusses the ranking of the firms. Rank the firms for negotiation purposes. Selects one firm with which to enter into negotiations.

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17. Records the reasons and rationale behind the ranking of the firms, as related to the specific factors analyzed for each consultant proposal in Consultant Selection Board minutes.



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18. Contact the selected Consultant firm and set up a scoping meeting with the Consultant, District, and others with input to the scoping process to discuss the scope of work to begin negotiations.

Establish a time frame for the Consultant to submit a refined cost proposal for the specific project. Cost proposal including supporting data shall be broken down into the following separate cost elements for each separate task to be performed: (Tasks in cost breakdown will relate to various tasks outlined in the scoping meeting held with the Consultant Design Section and the narrative portion of the proposal).

Direct Salary Costs

To be itemized by classification, estimated hours, hourly rate, total direct labor costs. (Direct salary not to include payroll additive or overhead costs). Support or justification is required to determine how labor hours were estimated and what the basis of rates are. The basis for proposed salary increases must be submitted.

Payroll Salary Additives (Fringe Benefits)

To identify the percentage to be applied to direct labor costs. Support data will include identification of items that are considered payroll additive costs as currently documented in consultant's records. Computation (basis) of the rate and period of time represented by costs used to develop rate will also be explained as part of submittal.

Indirect Costs (General and Administrative Overhead)

To identify the percentage to be applied to direct salary costs plus fringe benefits.

The consultant shall state how he computes and applies indirect costs and show trend and budgetary data to support the proposed rate.

Support will be represented in the current audit report submitted by the consultant. The accounting period supporting the itemized costs will be identified for both the indirect cost pools and cost allocation basis. The date the rate was developed is also to be shown. The method and basis of computing the rate will be shown.



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Direct Non-Labor Costs

Such costs must be broken down into individual cost classifications, estimated costs and basis of estimating such costs. Support data will clearly evidence the basis for arriving at the individual estimated quantities and costs including judgmental factors and methods used to project from known data and any contingencies used. This will include, where necessary, written quotations or other documentation as support for such costs including costs proposed for subconsultants.

Profit

Profit will be expressed in dollars and data submitted by consultant will support the basis for the profit estimate. Profit will not be determined or expressed as a percentage of any item.

19. Prior to receipt of the Consultant's cost proposal, revise the Department's cost estimate to reflect the work as discussed with the Consultant at the scoping meeting.

20. Seek approval from the Audit Unit of the audited FAR rates based on the audit report provided by the consultant. This will be done once per consultant per year as determined by each consultant's fiscal year. Once the audited FAR rates are approved, they can be accepted during the one (1) year of validity corresponding to the fiscal year of the consultant.

Transmits a copy of the proposal and technical or engineering analysis to the Audit Unit requesting an audit evaluation.

Pre-negotiation audits will be required for all contracts over \$250,000 and for all contracts where there is insufficient knowledge of the consultant's accounting system, there is previous unfavorable experience regarding the reliability of the Consultant's accounting system, or the contract involves procurement of new equipment or supplies for which cost experience is inadequate.

The transmittal will identify the due date for receipt of the audit report allowing as much time as possible for the audit work. If the time available is not adequate to permit satisfactory coverage of the proposal, the auditor shall so advise the Consultant Design Engineer and indicate the additional time needed.

The audit review will be based on the audit report as submitted by the consultant. However, periodic field



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reviews may be necessary to verify outstanding issues. A field review may be necessary to verify the results of the audit report.

The auditor is responsible for the scope and depth of the audit. As a minimum, the audit report shall include comments on the following:

a. Consultant's Accounting System:

Comments on the type of accounting system the consultant has, whether the system is adequate for cost-type contracts, the accounting period applicable to the costs examined, a statement as to whether the system is adequate for accurate determination of costs and whether it properly excludes unallowable costs or costs not allocable to the contract.

b. Consultant's Estimating System:

Comments on the consultant's estimating system which shall include:

(1) The source of data for estimates and the procedure for ensuring that the data is complete, accurate and current;

(2) The assignment of responsibilities for originating, reviewing, and approving estimates; and

(3) The procedures followed in developing estimates for each of the direct and indirect elements of cost.

c. Proposed Cost Elements and Quantities:

Comments on the consultant's basis for and method used to determine the quantitative and cost aspects of each cost element in the proposal and whether all cost data submitted by the consultant is current, complete, and accurate per the consultant's records.

d. Indirect Costs:

Comments on whether the consultant's proposed indirect rates for fringe benefits and general and administrative overhead rates are supported by the consultant's records, the same as the consultant is using in other contracts, and in line with the consultant's currently experienced rates. Also, comments will be furnished on how old the rates are, what time-frame they represent, how they compare to prior rates, are they necessary and reasonable when compared to the past rates, and are they expected to change during the contract period. The accounts,



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their respective exceptions (unallowable costs) and the base as proposed and as audited for each indirect rate is to be included in the audit report along with any appropriate recommendations concerning the overhead rate.

e. Profit:

Comments on the current profit experience, rates used on other contracts, and the basis of the consultant's proposed profit are to be included.

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21. Further reviews consultant proposal in regard to scope of work, man-hours, total cost, etc., and conducts negotiations as required (1) to reach a fair and amicable agreement, or (2) to conclude negotiations where a fair and amicable agreement cannot be reached. Negotiation documentation is to be maintained in accordance with 49 CFR 18.42.

a. If agreement is not reached, advises the Consultant Selection Board that negotiations were terminated and requests approval of the next consultant on the ranked list of those firms that had submitted proposals for the work. Returns to step 18 of the procedures to continue with process

b. When agreement is reached, obtains a written certification from the consultant as follows:

"I certify that the cost or pricing data submitted and identified to the MDT during the selection and negotiation process is current, complete and accurate as of the date of the agreement on the price."

Then develops a suitable preliminary agreement which will include, as a minimum, the following provisions:

- (1) Date of agreement
- (2) Scope of work to be done
- (3) Time of beginning and completion
- (4) Contract price and payments including limiting amounts for all contracts. This provision will contain a reference to the applicable cost principle as specified by current federal regulations. The provision will state that, "Payments to the consultant will be limited to those costs determined by the department to be allocable, reasonable,



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and allowable in accordance with the provisions of Federal cost principles contained in 48 CFR Part 31.

(5) Changes in work (5a) Additional work due to errors and/or omissions by the consultant to be performed at no additional cost to the Department. Require that the consultant carry errors and omissions insurance in the amount no less than \$1,000,000.

(6) Disputes

7) Obligations of contracting agency

(8) Ownership of documents

(9) Patent rights and copyrights, if applicable

(10) Inspection of work and monitoring

(11) Access to records and record retention

(12) Provisions for administrative, contractual or legal remedies

(13) Civil Rights - All agreements will contain provisions requiring the consultant to comply with Title VI of the Civil Rights Act of 1964, as amended, Americans with Disabilities Act, and Montana Governmental Code of Fair Practices. These provisions will be included in all contracts in the form of an Exhibit.

(14) Subcontracts/Agreements - All agreements will include a requirement that "subcontracts exceeding \$10,000 in cost will contain all required provisions of the prime agreement."

(15) Coordination with Department's Project Management System (PMS) - Prepare target dates for critical and other intermediary activities for the project development.

22. Furnishes a copy of the proposed agreement to Legal Services for comment and approval for legal content.

23. Reviews comments from Legal Services and Civil Rights Bureau and revises agreement as warranted. Documents disposition of all comments received.



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24. Submits two (2) original agreements to the Consultant firm for signature. Receives signed agreements from consultant.

Director of
Transportation

25. Transmits the agreements signed by the the Consultant to the Administrator, Engineering Division, for final execution by the Director of Transportation.

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26. Reviews and signs the agreements, if satisfactory. Signature is attested to and signed agreements are returned to the Preconstruction Bureau.

27. Distributes originals and copies of executed agreement (including the Consultant proposal) to the following:

- a. Federal Highway Administration
- b. Consulting firm
- c. Consultant Design Section
- d. Engineering Division
- e. Preconstruction Bureau
- f. Accounting Bureau
- g. District Administrator
- h. Audit Unit
- i. Other bureaus as appropriate

Supplemental agreements will be distributed as noted above.

28. Notifies the consulting firm to proceed with the work in accordance with the agreement.

CONTRACT ADMINISTRATION AND MONITORING

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29. Administers the work performed by the consultant during the period of the agreement. In addition to the Department's established project development coordination efforts and meetings, administration responsibilities will include:

- a. Assuring a qualified publicly employed engineer is assigned to be in responsible charge of the project at all times, and the engineer will:



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- (1) Be aware of, and involved in, decisions relative to changed conditions which require supplements or agreement modifications.
 - (2) At all stages of the project, be aware of the qualifications, assignments, on-the-job performance, etc. of the consultants project staff.
 - (3) Visit Consultants' offices on a frequency that is commensurate with the magnitude and complexity of the project.
 - b. Assure that steps 31 through 42 are completed
 - c. Assure that project phase reviews are coordinated with consultant and all deadlines and Department's PMS activity schedules are met.
 - d. As appropriate, periodically evaluate consultants' performances during the terms of the contracts.
30. If events occur which have a significant impact on the project, a meeting may be scheduled with the consultant. Reasons for these meetings could be:
- a. Problems, delays or adverse conditions which will significantly affect the ability to attain project objectives, prevent meeting time schedules or goals, or preclude the attainment of project work units by established time periods.
- The action taken or contemplated to resolve the situation shall be determined.
- b. Changes in the Preconstruction Management System or the highway program.
 - c. Disadvantaged Business Enterprise or Title VI problems.
31. Prepare reports on all meetings and document pertinent communications with consultants.
32. Reviews consultant progress reports for compliance with the contract and project accomplishments, including Title VI and Disadvantaged Business Enterprise. Takes appropriate actions.
33. Receives invoices from consultants which will be submitted in standard format showing breakdown of costs



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claimed and % of work complete. Invoices are verified for accuracy in accordance with the contract. Consultant certifies invoice contains no unallowable costs per the contract and the specific federal cost principles referenced therein.

34. Recommends the rejection, revision or approval of invoices submitted by the consultant firm for work accomplished in compliance with the agreement.

35. Receives notice of work claimed by the consultant to be outside the scope of the original contract, prior to start of any such work. Reviews the proposed work and compares to scope of work in the contract and original proposal. Documents the basis for determining the work is either within or outside the current scope. Prepares a Departmental estimate of the additional work.

After completion of the Departmental estimate, requests consultant to submit a cost estimate for the additional work. Reviews and evaluates the consultant's proposal. Also includes analysis of:

a. Reason for addition, extension or supplement to the agreement as related to original scope and proposed scope of work.

b. Estimate of costs

36. Provides for negotiation, execution and finalization of supplemental agreements prior to start of any work covered by such agreements. If it is determined to be in the public interest to approve proceeding with the work prior to execution of the supplemental agreement, the reasons why this is considered necessary will be documented and the consultant can then be given a written approval to proceed.

Supplemental Agreements involving major changes in the scope of work and significant increases in the original contract amount will be submitted to the Director of Transportation for approval.

37. Determine that the terms and conditions of the contract have been fulfilled and that all services have been performed. This is done by having all plans, reports, documents, and claims checked and approved prior to processing of the final voucher for payment and final release.

38. Advises consultant that the final review has been made and that the work is acceptable and the project is



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complete or advise of changes to be made before work can be accepted. Determines if final audit is necessary.

39. Completes and distributes the performance evaluation report on the projects. Copies sent to appropriate bureau chief; district administrators; and Administrator, Engineering Division. Maintains copy of performance evaluation reports in consultant's file for use by rating panels on subsequent contract proposals. Receives performance evaluation reports from bureau chiefs; district administrators; etc. and distributes as noted above. Maintains performance evaluation in Contract Management System when the system becomes available.

40. Monitors project to identify any construction problems or conflicts resulting from design or plan errors and omissions, notifies the consultant of all such errors and omissions, and determines the liability of the Consultant for the cost of the corrective action following discussions between the Department and the Consultant.

41. In many cases, administration of the contract will be by other sections or districts within the Department. These contracts will generally be for construction engineering and inspection work (testing) and some specific rates of pay contracts (hourly rates). In these instances, the Consultant Design Section will inform the contract administrator of their responsibilities in regard to these contracts which will include:

a. Assure that a qualified publicly employed engineer is assigned to be in responsible charge of the project at all times and that they will:

(1) Be aware of and thoroughly knowledgeable of the day to day operations of the contractor and the consultant.

(2) Be aware of, and involved in, decisions relative to changed conditions which require change orders or agreement modifications.

(3) At all stages of the project, be aware of the qualifications, assignments, on-the-job performance, etc. of the consultant's project staff.

(4) Visit the project on a frequency that is commensurate with the magnitude and complexity of the project.



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(5) Visit Consultant's offices on a frequency that is commensurate with the magnitude and complexity of the project.

b. Assure that steps 31 through 42 are completed

QUALIFIED CONSULTANTS LIST

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42. In January of each even year, advertise in major newspapers throughout the state including publications serving minority populations and make direct mailings to known consulting firms requesting submission of updated GSA Standard Form 254's from consultants interested in providing professional services to the Department for the next two calendar years. The Civil Rights Bureau will be notified when this is done so they can contact certified Disadvantaged Business Enterprise consultants.

43. Receives the completed forms and information submitted by consultant firms, analyzes and sets up a file.

44. Maintains records which reflect past performance of consulting firms.

45. Recommends to the Consultant Selection Board that specific consulting firms be removed from the Department's Consultants list when performance is not satisfactory.



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PREQUALIFICATION OF CONSULTANTS

If it is determined that the Department's limited resources will delay the delivery of a substantial number of projects, the Department may consider pre-qualifying an appropriate number of firms to provide Engineering services. The pre-qualifying process would follow the selection procedures with the following modifications:

This process will be implemented only if the Consultant Design Engineer accomplishes the following:

1. Acquires a legal opinion from the Department's Legal Services that the pre-qualification process will not restrict competition.
2. Informs the Consultant Selection Board of the need for a pre-qualification procedure and gets its concurrence.
3. Secures written approval of the pre-qualification procedure from the Federal Highway Administration.

Exceptions to the selection procedures as specified in items 4 through 10 and 14 through 30 will be as follows:

1. Request for Qualifications (RFQ) will require that firms include in their Statement of Qualifications (SOQ) a description of their strength in various specified highway work categories. The categories may include road design, bridge design, geotechnical work, survey & mapping, hydraulics & hydrology, construction engineering, etc.
2. The firms will be rated for the factors as noted in item 6 of the Consultant Services Procedures and, in addition, for each category listed in the RFQ. One rating list will be developed based on factors contained in item 6 and one rating list for each category as specified in the RFQ. At the stage when a qualifications based consultant list is being developed, location will not be used as one of the rating criteria as location of the projects is unknown.
3. In the analysis and selection stage, the Consultant selection Board will short-list at least three consultant firms for each project based on the firms' relative standing on the qualification list and their relative standing on the categories specifically associated with the project. These firms will be evaluated and ranked for the specific project considering the following items:
 - a) Experience
 - b) Personnel qualifications
 - c) Previous performance
 - d) Location (maximum carrying weight - 5%)
4. The top rated firm will be selected for each project. The other two will be specified as alternates. After the Department has scoped the project requirements with the top rated firm, that firm will be asked to submit



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information as specified in item 11 of the Consultant Services Procedures and a detailed cost proposal to provide the specified services. If the firm, for any reason, is not able to meet the project requirements or there is a failure in cost negotiations, the firm ranked next will be given an opportunity to submit a proposal for the work.

- 5 The Consultant Design Engineer will draft and execute an agreement between the Department and the successful consultant.
6. For special or exceptionally complex projects normal procedures will be employed to select consultants.
- 7 The list of pre-qualified firms will remain in effect for one year. The Consultant Selection Board may extend this period with the Federal Highway Administration's approval.



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MANAGEMENT TYPE CONTRACTS

Management type contracts using Federal Aid Funds require approval of the Federal Highway Administration at the beginning stage. Requests for approval to use this type of contract require justification indicating why the Department cannot do the work with its own forces.



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SMALL CONTRACT PROCEDURES (Contracts less than \$10,000)

For the selection of architectural, engineering, or land surveying firms, the Department will follow state law as contained in Title 18, Chapter 8, Section 212, MCA, for the selection of consultants for small contracts.

The procedure for this type of contract will be as follows:

For projects for which the consultant fees are estimated not to exceed \$10,000, the Administrator of the Engineering Division or his designated representative may conduct direct negotiations with the consultant.

Consultant firms that have the necessary qualifications and experience and have the time and staff to do the necessary work when needed will be utilized for this type of contract. DBE directory will be consulted.

Upon finalization of the negotiations, the Consultant Design Engineer will develop a suitable agreement containing the provisions noted under Item 23-b, of the Consultant Services Procedures. The agreement will be reviewed and approved by Legal Services, signed by the Consultant and sent to the Director for final execution.

TERM CONTRACTS

Term contracts are on-going, general contracts covering similar work on numerous projects.

Types of work covered under term contracts are land surveying, cultural resource surveys, hazardous waste, soils surveys, right-of-way acquisition, etc. The term of the contract will be no more than two years.

The selection of consultants for term contracts will be handled as indicated in steps 1-30 of the preceding procedures with the following exceptions:

- 1) Under Step 2, the scope of work will be general and not project specific since no specific projects will have been identified at this time. Also, no in-house estimate can be prepared at this time for the same reasons. A contract ceiling will be established based on a rough estimate of the amount of work to be performed for the life of the contract. The basis of this contract ceiling will be documented.
- 2) Under Step 20, a project specific cost proposal will not be requested since no specific projects will have been identified at this time. However, the same cost information, [direct salary rates, payroll salary additive rates (fringe benefits), indirect rates (general and administrative overhead), indirect rates (general and administrative overhead), direct non-labor rates and profit] in terms of rates will be requested for review by the Audit Unit for the audit evaluation. This information will be provided by the firm's audited FAR rates which will be provided by the consultant to be considered responsive to the RFP.



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3) The number of consultants selected for term contracts will be based on need, availability and location.

4) For engineers, surveyors and architects (ESA), where the work is not project specific, final selection of the consultant(s) for a term contract may be solely based on Location, Quality of Firm & Personnel, Capacity & Capability of Firm and Record of Past Performance and skip steps 11 through 18.

The intention is not to short-cut the process, but to improve it for a specific purpose. The user agency may approach one consultant for each individual task and solicit information as required in steps 11, 12 and 13. If the prospective consultant proves the work can be performed to the satisfaction of the Department, the user agency may proceed with step 20. Where fair and amicable agreement cannot be reached, negotiations will be halted and another firm on the term contract will be contacted and the above process will be repeated.

The user agency will provide Consultant Design Engineer with all the documentation as to the final selection, the in-house cost estimates, consultant's estimate and subsequent negotiations and final agreement.

5) For the work that is not predominantly ESA in nature, the cost must be included as an evaluation factor. All consultants on the term contract will be provided with an opportunity to submit proposals on all tasks that user agency is planning on using consultant for. Final selection for individual tasks will be based on:

- a) Cost - 30%
- b) Availability & Organization/Work Plan - 25%
- c) Understanding of the Specific issues - 25%
- d) Approach to the Project - 20%

Requirements of cost negotiations, preparation of in-house estimates and subsequent documentation of the process leading to a final agreement will still apply as it is contained in this section.

Once the consultant or consultants are selected and the contracts are signed, the following procedures will be followed:

1) Once the need to use a consultant on a specific project is determined, the area needing the consultant (District, Environmental and Hazardous Waste Bureau, etc.) will prepare an in-house cost estimate in conformance with Step 2 of the procedures. Estimates will be uniformly prepared under procedures developed by the Consultant Design Section.

2) One of the selected firms will be contacted and requested to submit a detailed cost proposal and other project specific information. This information will be reviewed and negotiations conducted as necessary to reach a fair and amicable agreement. Where agreement cannot be reached, negotiations will be halted and another firm will be contacted and the negotiations will be begun again.



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3) Once the scope of work and fee is finalized, a letter of agreement indicating the cost ceiling will be prepared and signed and the consultant will be authorized to proceed.

ATTACHMENT TO CONSULTANT SELECTION PROCEDURES

SECTION 1. TYPES OF CONSULTANT SERVICES

The Department typically contracts with consultants for the following types of services:

| <u>Type of Service</u> | <u>Type of Consulting Firm</u> |
|--|-----------------------------------|
| a. Consultants: (Covered under Mini Brooks Provisions) | |
| Road Design | Civil Engineer |
| Bridge Design | Civil Engineer |
| Airport Design | Civil Engineer |
| Surveying | Registered Surveyor |
| Building Design | Architect |
| b. Consulting Services: | |
| Hazardous Waste | Engineer (Scientist) |
| Forensic Engineering | Engineer/Scientist |
| Environmental Impact Studies | Engineer + Others |
| Geotechnical, Soils Surveys | Engineer (Geologist) |
| Fabrication Inspection | Engineer (Materials) |
| R/W Plans, Design, Acquis. | Engineer, R/W Agents |
| Wetland Studies | Environmental (Biologist) |
| Cultural Resources Plan | Environmental (Anthropologist) |
| Management Consultation | |
| Energy Studies | Engineer |
| Planning Service | |
| c. Services: | |
| Accounting Services | |
| Air Studies | |
| Airport Studies | |
| Audit Services | |
| Geological Studies | |
| Mapping Service | |
| Photography & Mapping Service | |
| Subsurface Utility Engineering (SUE) | |
| Transportation Studies | |
| Water Pollution Testing | |



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SECTION 2. SAMPLE FORMAT FOR RFP/SOQ

In response to the initial Request for Proposal and Statement of Qualifications, the consultant's proposal will follow the outline below and provide the following information:

- I. Describe the specific service the firm would provide. (Maximum of two pages)
- II Provide qualifications of the project team and technical personnel assigned to work on project.
 - A. Provide an organization chart depicting the personnel to be used on this project, their area of expertise, registration, special training, chain of command, office location(s). Identify how much of each person's time will be spent on the project. (If personnel from more than one office are to be utilized indicate which office.) (Maximum of two pages)
 - B Provide resumés of above personnel, including specific related project experience; Identify when applicable experience for each person was obtained. (Put in Appendix A).
 - C. Provide a specific outline and description of the support services proposed to complete the entire project from start to finish, including subcontractors, drilling, aerial photography, labs, etc. (Maximum two pages)
 - D. Discuss physical plant and in-house facilities (i.e. computers, lab, etc.). (One page)
- III. Provide a brief (but specific) outline of firm's previous (highway, bridge, EIS, interchange, etc.) projects and other projects relating to the specific project RFP, and any special abilities or experience suiting the firm for work on the particular project. Identify the time frame (beginning and completion dates) in which projects were completed and experience gained. (Maximum of four pages)
- IV Describe how the firm proposes to perform the project as defined in the scope of work. Demonstrate the firm's competence to do the work with available manpower and resources taking into account present and projected workload. (Maximum of two pages)
- V. List as references all of the firm's clients from the past three years for projects that deal with similar work as proposed. (Put in Appendix B)
 - A Include client name, contact person, phone number.
 - B. Give range of contract value



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SECTION 3. RATING PANEL

When a project is to be given to consultants, a Rating Panel will be established to evaluate and rate the consultant's initial and final proposals. The Rating Panel will normally be composed of members as noted below:

- I. A representative from the user agency (normally from the division, bureau or section affected by the project or service) such as [Preconstruction, Bridge, Motor Transportation Services, Right-of-Way Maintenance, Rail and Transit, Aeronautics, etc.].
- II A representative from the Consultant Design Section or a second representative from the user agency.
- III. A representative from the District Administrator or using Division Administrator.
- IV. A representative from the Director's office (optional).

The following are typical types of projects for which consultants are contracted, the department or person normally responsible for providing representatives for the rating panel for each type of project, and examples of typical Rating Panels for each type of project. Where personnel are noted by title, they can designate a representative if desired to serve on the rating panel.

| <u>Type of Contract</u> | <u>Typical Rating Panel</u> |
|-----------------------------------|---------------------------------|
| a. <u>Road Design Contract</u> | |
| 1) User Agency | Road Design Section |
| 2) User Agency | Consultant Design Section |
| 3) User Division | District Administrator |
| 4) Director | Chief of Staff optional) |
| b. <u>Bridge Contract</u> | |
| 1) User Agency | Bridge Bureau |
| 2) User Agency | Consultant Design Section |
| 3) User Division | District Administrator |
| 4) Director | Chief of Staff (optional) |
| c. <u>Airport Design Contract</u> | (Engineering Project) |
| 1) User Agency | Aeronautics Division |
| 2) User Agency | Consultant Design Section |
| 3) User Division | Aeronautics Administrator |
| 4) Director | Chief of Staff (optional) |
| d. <u>Surveying Contract</u> | |
| 1) User Agency | Photogrammetry & Survey Section |
| 2) User Agency | Consultant Design Section |
| 3) User Division | District Administrator |
| 4) Director | Chief of Staff (optional) |



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- e. Building Design Contract
- | | |
|------------------|--|
| 1) User Agency | Motor Transport Services Administrator <u>or</u> Affected Unit |
| 2) User Agency | Facilities Management Systems |
| 3) User Division | District Administrator |
| 4) Director | Chief of Staff (optional) |
- f. R/W Design, Plans, Acquisition
- | | |
|------------------|------------------------------------|
| 1) User Agency | R/W Bureau |
| 2) User Division | District Administrator |
| 3) User Division | Engineering Division Administrator |
| 4) Director | Chief of Staff (optional) |
- g. Geotechnical, Soils Surveys and Fabrication Inspection
- | | |
|------------------|---|
| 1) User Agency | Geotechnical Section <u>or</u> Affected Unit (i.e. Materials) |
| 2) User Agency | Geotechnical Section <u>or</u> Affected Unit (i.e. Materials) |
| 3) User Division | Consultant Design Section |
| 4) Director | Engineering Division Administrator |
| | Chief of Staff (optional) |
- h. Hazardous Waste Studies, Environmental Impact Studies, Wetland Studies, and Cultural Resources Plan
- | | |
|----------------|--|
| 1) User Agency | Environmental Services Section |
| 2) User Agency | Environmental Section <u>or</u> District Administrator |
| 3) User Agency | Consultant Design Section |
| 4) Director | Chief of Staff (optional) |
- i. Management Systems Studies
- | | |
|----------------|---------------------------------|
| 1) User Agency | Affected Unit |
| 2) User Agency | Affected Division Administrator |
| 3) User Agency | Consultant Design Section |
| 4) Director | Chief of Staff (optional) |
- j. Airport Studies
- | | |
|----------------|---------------------------|
| 1) User Agency | Aeronautics Division |
| 2) User Agency | Aeronautics Division |
| 3) User Agency | Consultant Design Section |
| 4) Director | Chief of Staff (optional) |
- k. Transportation Studies
- | | |
|----------------|----------------------------------|
| 1) User Agency | Transportation Planning Division |
| 2) User Agency | Transportation Planning Division |
| 3) User Agency | Consultant Design Section |
| 4) Director | Chief of Staff (optional) |



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1. Training Needs/Program Studies
 - 1) User Agency Affected Unit
 - 2) User Agency Human Resources Training Unit
 - 3) User Agency Consultant Design Section
 - 4) Director Chief of Staff (optional)

SECTION 4. CONSULTANT SELECTION BOARD

After all consultants' proposals have been rated by the Rating Panel, the appropriate Consultant Selection Board will be convened to make the selections. The board will normally include the five members as identified below:


- I. For Engineering Division projects (such as Road Design, Bridge Design, R/W Design, and Surveying Contracts), the Consultant Selection Board will be composed of the following personnel (or their designated representatives):
 - A. Engineering Division Administrator
 - B. Consultant Design Engineer
 - C. Appropriate District Administrator or Appropriate Bureau Chief
 - D. Director of Transportation
 - E. Preconstruction Engineer
- II. For other MDT Divisions [Transportation Planning Division, Motor Carrier Services, Strategic Planning, Aeronautics, etc.], the Consultant Selection Board will be composed of the following personnel (or their designated representatives):
 - A. Appropriate Division Administrator
 - B. Consultant Design Engineer
 - C. Director of Transportation
 - D. Engineering Division Administrator
 - E. Preconstruction Engineer

AMENDMENT

The following is an amendment to the Consultant Services procedures approved on April 27, 1999 by the Montana Department of Transportation and the Federal Highway Administration.

Article 29 item a(3) is rescinded and replaced as follows:

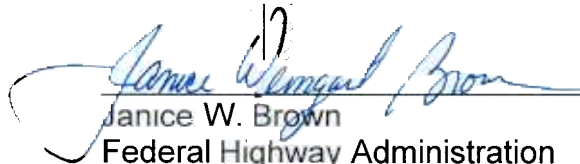
"In addition to meeting all other requirements of the Consultant Services procedures pertaining to supplementing the original agreements, Consultant Design Engineer will acquire approval of the Consultant Selection Board for a supplement exceeding \$200,000."



Dave Galt, Director
Montana Department of transportation
Helena, MT

8/14/01

Date



Janice W. Brown
Federal Highway Administration
Helena, MT

8/21/01

Date

Department Wide Distribution